



Department of Development Services
205 Lawrence Street
Marietta, Georgia 30060
Brian Binzer, Director

STAFF REVIEW AND RECOMMENDATION

Variance Case #: V2012-30

Legistar #: 20120739

Board of Zoning Appeals Hearing: Monday, August 27, 2012

Applicant: Traton Homes, LLC
% Moore Ingram Johnson & Steele, LLP
J. Kevin Moore, Esq.
Emerson Overlook
326 Roswell Street
Marietta, GA 30060

Property Owner: Cobb County, Georgia
100 Cherokee Street
Marietta, GA 30060

Address: 532 Lemon Street & 409 Lemon Street (a/k/a 522 Lemon Street)

Land Lot: 11620 **District:** 16 **Parcel:** 0670

Council Ward: 5 **Existing Zoning:** R-4 (Single Family Residential 4 units/acre)

Special Exception / Special Use / Variance(s) Requested:

532 Lemon Street:

1. Variance to reduce lot width from 75 ft. to 63.24 ft. at 532 at Lemon Street. (*Section 708.04(H)*)
2. Variance to reduce western side set back from 10 ft. to 7.58 ft. at 532 Lemon Street. (*Section 708.04(H)*)

409 Lemon Street (a/k/a 522 Lemon Street):

1. Variance to reduce lot width from 75 ft. to 52.60 ft. at 409 Lemon Street. (Section 708.04(H))
3. Variance to reduce lot size from 7,500 sf. to 6,970 sf. at 409 Lemon Street. (Section 708.04(H))
4. Variance to reduce eastern side set back from 10 ft. to 7.58 ft. at 409 Lemon Street. (Section 708.04(H))

Statement of Fact

As per section 720.03 of the Comprehensive Development Code of Marietta, the Board of Zoning Appeals may alter or modify the application of any such provision in the Development Code because of unnecessary hardship if doing so shall be in accordance with the general purpose and intent of these regulations, or amendments thereto, and only in the event the board determines that by such alteration or modification unnecessary hardship may be avoided and the public health, safety, morals and general welfare is properly secured and protected. In granting any variance the board of zoning appeals shall designate such conditions in connection therewith as will, in its opinion, secure substantially the objectives of these regulations and may designate conditions to be performed or met by the user or property owner, out of regard for the public health, safety, comfort, convenience, and general welfare of the community, including safeguards for, with respect to light, air, areas of occupancy, density of population and conformity to any master plan guiding the future development of the city. The development costs of the applicant as they pertain to the strict compliance with a regulation may not be the primary reason for granting a variance.

Criteria:

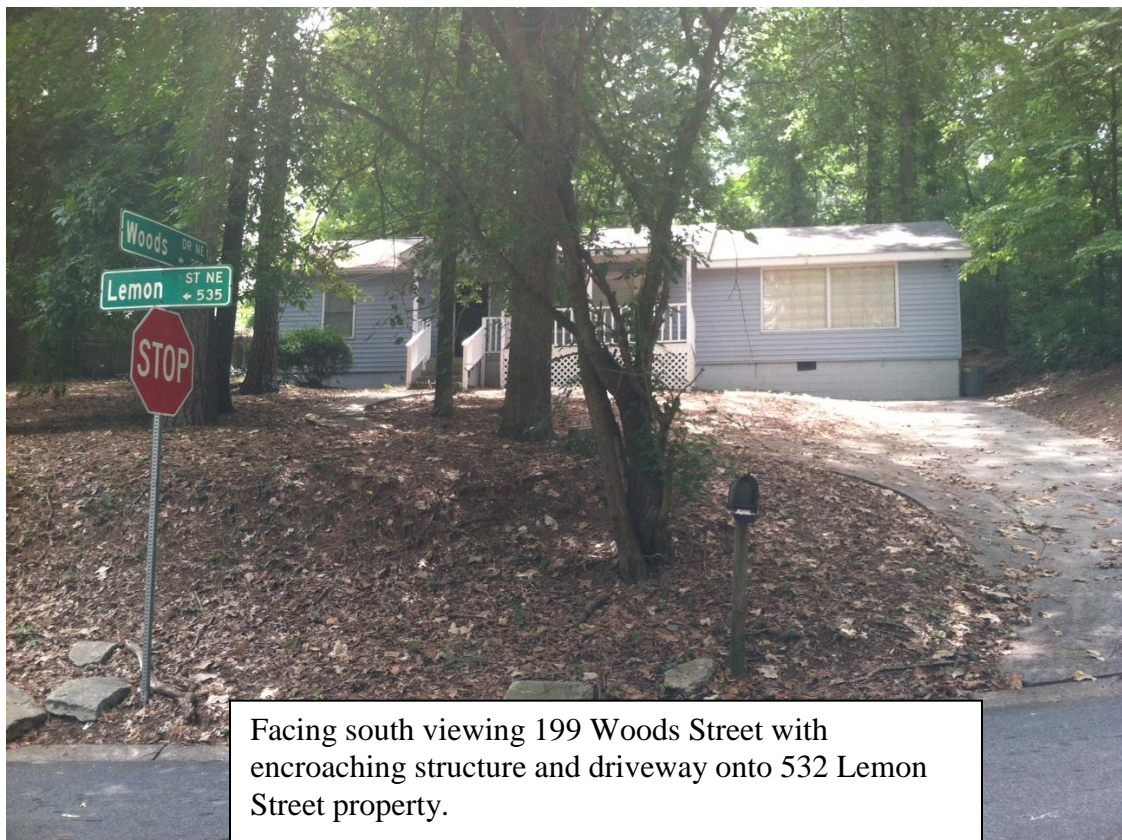
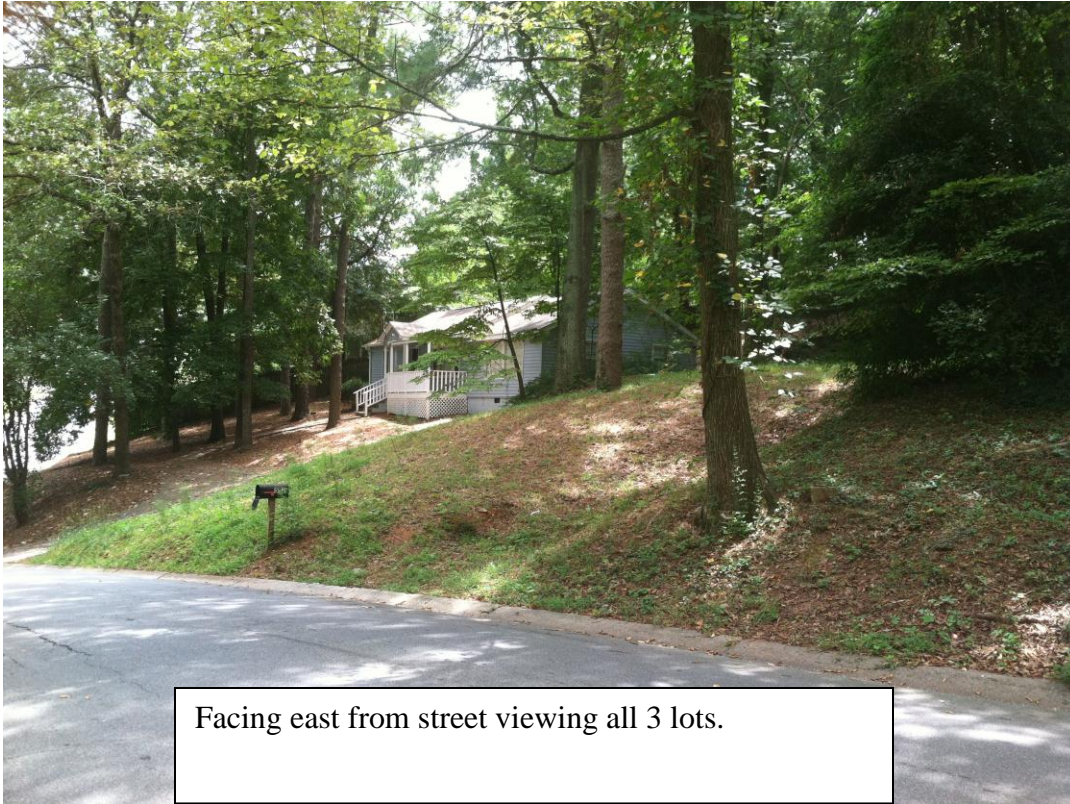
1. Exceptional or extraordinary circumstances or conditions *are/are not* applicable to the development of the site that do not apply generally to sites in the same zoning district.
2. Granting the application *is/is not* necessary for the preservation and enjoyment of a substantial property right of the applicant, and to prevent unreasonable property loss or unnecessary hardship.
3. Granting the application *will/will not* be detrimental or injurious to property or improvements in the vicinity of the development site, or to the public health, safety, or general welfare.

PICTURES



Facing south looking at 532 Lemon Street. To the east is 199 Woods Street with the encroaching structure and driveway.







Recommended Action:

Approval. Kevin Moore and Traton Homes, LLC, petitioners for the owner, Cobb County Government, are requesting variances at 532 Lemon Street and 409 (aka 522) Lemon Street that would allow petitioners to construct affordable single family houses on the properties. The properties are currently zoned R4 (Single Family Residential 4 units/acre), and are located along Lemon Street near the intersection of Woods Street just off of North Fairground Street. The other properties along this section of Lemon Street and Woods Street are zoned R4 (Single Family Residential 4 units/acre) and are occupied by small homes in a maturing residential neighborhood adjacent to the Fort Hill Marietta Housing Authority property.

The two subject properties are currently vacant lots. When the properties were surveyed, it was determined that the driveway and an entire building addition attached to the house located at 199 Woods Street encroached onto the 532 Lemon Street property. In order to rectify the error and alleviate any hardship to 199 Woods Street property, the applicant is proposing to adjust the west and east side property lines for the 532 Lemon Street property, and to convey a portion of the 532 Lemon Street property to the adjacent owner of 199 Woods Street.

The eastern side yard property line of 532 Lemon Street is proposed to be adjusted to create the required 10 ft. side building line for the property; and also to create a 10 ft. setback from the encroaching structure (on 199 Woods Street). According to the Fire Department, any structure that is 10 ft. away from the property line will not require new or existing buildings to have fire sprinklers. The adjustment of the east side yard property line for 532 Lemon Street resulted in the need to adjust the west side yard property line westward to create buildable lots (532 and 409 Lemon Street) by seeking minimal variances.

According to City Code Section 708.04, R4 (Single Family Residential 4 units/acre) Bulk and Area Regulations require a minimum lot size of 7,500 ft., minimum lot width of 75 ft. and 10 ft. minor side yard setbacks. The petitioner seeks various variances to create buildable lots for these two subject properties so that the proposed residential dwellings may be constructed at a later date.

532 Lemon Street

The submitted survey shows the adjusted property lines for 532 Lemon Street that would create a lot that would be 63.24 ft. wide and 0.2 acres (8,712 sf.) in area. (The survey should be corrected to show the correct lot area of 8,712 s.f. for a 0.2 acre lot instead of 8,625 s.f.) The requested variances for this lot are as follows:

1. Variance to reduce the minimum lot width from 75 ft. to 63.24 ft.
2. Variance to reduce the east side yard setback from 10 ft. to 7.58 ft.



409 Lemon Street (aka 522 Lemon Street)

The submitted survey shows the adjusted western property line for 409 (a/k/a 522) Lemon Street, would create a 0.16 acre (6,970 sf.) lot with a lot width of 52.60 ft. (The survey should be corrected to show the correct area of 6,970 s.f. for a 0.16 acre lot instead of 7,184 s.f.) Also, the property addresses are currently out of sequence, but will be corrected by the GIS Department during the exemption platting procedure so that the postal service and emergency services will be able to more easily locate these properties.

The requested variances for this lot are as follows:

- Variance to reduce the minimum lot width from 75 ft. to 52.60 ft.
- Variance to reduce the west side yard setback from 10 ft. to 7.58 ft.
- Variance to reduce the minimum lot size from 7,500 sf. to 6,970 sf.

According to the Fire Department, any structure that is constructed on 532 Lemon Street and 409 (aka 522) Lemon Street will need to have fire sprinklers due to the structures being less than 10 ft. to the side yard property lines.

An exemption plat will be required for all 3 lots affected by the lot line adjustments - 409 (a/k/a 522) Lemon Street, 532 Lemon Street and 199 Woods Street. During the exemption platting process the address for 409 Lemon Street shall be recorded to reflect the new address of 522 Lemon Street to correct the address numbering sequence.

The proposed variances will allow buildable lots to be created that will be in character with the existing neighborhood, and therefore, Staff recommends approval of the listed variances with the following stipulations:

- Corrections shall be made to the survey.
- Any structure that is constructed on 532 Lemon Street and 409 (aka 522) Lemon Street must install fire sprinklers due to the structure being less than 10 ft, side yard property lines.
- An exemption plat shall be filed for all three lots 532 Lemon Street, 409 (aka 522) Lemon Street and 199 Woods Street.